

11-16.(Canceled)

REMARKS

This Amendment under Rule 1.116 is responsive to the Final Official Action dated 8 June 2006. Claim 1 is amended, and claims 3 and 11-13 and 15 are canceled. Thus, claims 1, 5, 7 and 10 remain pending in this application.

The present invention is currently in production by a national dental supply manufacturer and is enjoying brisk sales. This is largely due to three primary advantages: 1) it is a combination instrument (mirror and gauge); 2) the combination is particularly suited for use with a rubber stopper (after placing rubber stop on the tip of a file and inserting into root canal, insert the file into the distal access cavity of the present instrument to gauge depth of root canal; and 3) the entire configuration can be formed of an autoclavable and chemiclavable material for post-use cleaning and the risk of infection is greatly reduced. Applicant has called the Examiner persistently to arrange an in-person interview with Dr. Martin, the inventor, and to explore whether Rule 132 declarations would carry any weight. The Examiner has unfortunately chosen not to return calls and so Applicant's good faith efforts to expedite prosecution come down to this rule 116 Amendment.

The Examiner has rejected all pending claims 1, 3, 5, 7, 8, 10-12, and 15 as being obvious in view of various combinations of U.S. Patent Nos. 4,252,522 to Petty et al. (dental mirror with endodontic file measuring surface); 6,036,490 to Johnsen, et al. (finger-mounted dental instrument servicing system); 6,932,601 to Frider et al. (dental evacuation mirror); 4,028,810 to Vice (root canal file); 6,595,775 to Berk (dental mirror) and WO 01/41668A1 to Chadwick et al. (dual mirror-measurement device). None of the foregoing references explicitly teach or suggest all three primary advantages described above, nor the specific structure to accomplish them, and yet the Examiner freely picks and chooses similar structural characteristic from numerous prior art references and combines them freely.

In a good faith effort to avoid prolonged prosecution the Applicant proposes to amend claim 1 to very specifically recite the specialized application of the present device, namely, a multi purpose dental tool *“for use in conjunction with an existing root canal file having a rubber stopper inserted thereon”* to provide *“a visual indication of an offset of said stopper to a tip of said root canal file.”*

In addition, Applicant would very specifically recite the structural limitations adapted for this application, namely, *“a channel formed integrally in the second end of the handle shaft and defined by an open-faced groove having a semi-circular cross-section and diameter of approximately 1.0 mm adapted to conform to and receive an said existing root canal file inserted lengthwise therein, said groove opening distally into the second end of said shaft and extending*

open-faced from the second end along a length of said handle for receiving said existing root canal file during said lengthwise insertion until said stopper abuts the second end of said shaft, and measuring lines equally spaced along said shaft proximate said channel for demarcating millimeters and major intervals at every 5 millimeters along an extent of said channel relative to said second end”.

Still further, applicant has incorporated the previously-dependent limitation into claim 1 that “*said handle, mirror and measuring device [are] integrally formed from an autoclavable and chemiclavable material consisting of one from among the group of fiberglass, plastic, ABS plastic, glass filled resin, stainless steel, nickel chrome steel, and polymers*”.

The foregoing amendments were not earlier presented because the rejections raised in the Examiner’s final official action were based on references not earlier of record.

In view of the above, all pending claims 1, 5, 7 and 10 are believed to avoid all the rejections set forth in the Official Action and thus, the case should be in condition for allowance.

A Notice to this effect is respectfully requested, and the Examiner is invited to call the undersigned at 410.385.2383 to discuss any remaining issues.

Application of MARTIN, Howard
Appln. No. 10/821,693
Examiner: Casey Donahoe
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